

Introduced by Senator De León

February 15, 2012

An act to amend Section 34510.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1092, as introduced, De León. Vehicles: brokers of construction trucking services: surety bonds.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations and to pay the fees required by these provisions.

Existing law prohibits a broker of construction trucking services, as defined, from furnishing construction transportation services to a construction project unless it has secured a surety bond of not less than \$15,000 executed by an admitted surety insurer.

This bill would require a broker of construction trucking services to provide a copy of the surety bond when requested by a person who is reasonably likely to contract with the broker for construction transportation services and to annually provide a copy of the surety bond to a 3rd-party nonprofit organization that is related to the industry and regularly maintains a published database of bonded brokers or to post a current copy of the surety bond on the broker's Internet Web site.

The bill would prohibit a person from hiring, or otherwise engaging the services of, a broker of construction trucking services unless the

person obtains a copy of the broker's surety bond before services commence and would require a person who hires or otherwise engages the services of a broker of construction trucking services to maintain a copy of the bond for the duration of the contract or period of service plus one year.

The bill also would prohibit a broker of construction trucking services from hiring or otherwise engaging the services of, a motor carrier of property to furnish construction transportation services unless the broker provides a copy of the surety bond to the motor carrier of property before the services commence.

Because a violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34510.5 of the Vehicle Code is amended
2 to read:

3 34510.5. (a) (1) A broker of construction trucking services,
4 as defined in Section 3322 of the Civil Code, shall not furnish
5 construction transportation services to any construction project
6 unless it has secured a surety bond of not less than fifteen thousand
7 dollars (\$15,000) executed by an admitted surety insurer. The
8 surety bond shall ensure the payment of the claims of a contracted
9 motor carrier of property in dump truck equipment if the broker
10 fails to pay the contracted motor carrier within the time period
11 specified in paragraph (1) of subdivision (a) of Section 3322 of
12 the Civil Code.

13 (2) *A broker of construction trucking services shall provide a*
14 *copy of the surety bond when requested by a person who is*
15 *reasonably likely to contract with the broker for construction*
16 *transportation services.*

17 (3) *A broker of construction trucking services annually shall*
18 *provide a copy of the surety bond to a third-party nonprofit*

1 organization that is related to the industry and regularly maintains
2 a published database of bonded brokers or post a current copy of
3 the surety bond on the broker's Internet Web site.

4 (b) A person shall not hire, or otherwise engage the services
5 of, a broker of construction trucking services to furnish
6 construction transportation services unless the person obtains a
7 copy of the broker's surety bond prior to the commencement of
8 work. A person who hires or otherwise engages the services of a
9 broker of construction trucking services shall maintain a copy of
10 the bond at least one year beyond either the duration of the
11 contract if the services are provided pursuant to a written contract
12 or period of service if the services are not provided pursuant to a
13 written contract.

14 (c) A broker of construction trucking services shall not hire,
15 or otherwise engage the services of, a motor carrier of property
16 to furnish construction transportation services unless the broker
17 provides a copy of the surety bond to the motor carrier of property
18 before the services commence.

19 ~~(b)~~

20 (d) A broker of construction trucking services who furnishes
21 construction transportation services in violation of this section is
22 guilty of a misdemeanor and subject to a fine of up to five thousand
23 dollars (\$5,000).

24 ~~(e)~~

25 (e) In any civil action brought against a broker of construction
26 trucking services by a motor carrier of property in dump truck
27 equipment with whom the broker contracted during any period of
28 time in which the broker did not have a surety bond in violation
29 of this section, the failure to have the bond shall create a rebuttable
30 presumption that the broker failed to pay to the motor carrier the
31 amount due and owing.

32 ~~(d)~~

33 (f) For purposes of this section, "a broker of construction
34 trucking services" does not include a facility that meets all the
35 following requirements:

- 36 (1) Arranges for transportation services of its product.
37 (2) Primarily handles raw materials to produce a new product.
38 (3) Is a rock product operation (such as an "aggregate"
39 operation), a hot mixing asphalt plant, or a concrete, concrete
40 product, or Portland cement product manufacturing facility.

1 (4) Does not accept a fee for the arrangement.
2 SEC. 2. No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.